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Franchising Problems and Procedures in CATV

Donald P. Mullally: I will discuss franchising—what it is and why we do it. James Keller will discuss franchising from the company's point of view and what he, as a franchise's applicant, does. Edward Douglass will discuss franchising from the public's point of view—what public bodies should be concerned with, how they should go about their business—and consider some of the public interest considerations. I think some cities do a great job and some cities do a poor job. Everyone will be able to determine what could be done in his or her location to improve the situation, or to assure themselves of a system that is going to be adequate for their needs.

A franchise is, essentially, a right granted to a company or an organization to operate a CATV system in a given location for a given period of time and usually with certain kinds of restrictions. It may be an exclusive franchise which says only one company will be allowed to operate a CATV system in a given location for any given period of time; or it may be a nonexclusive franchise which states that at some future time the right is reserved to grant another franchise of the same sort to another competative company.

In my personal view, CATV is inherently a monopoly situation. That may be a heretical statement because monopolies are allegedly bad; however, consider the situation of the telephone company, which is in some ways analogous. What would happen if there were two telephone companies serving a community and they were not interconnected? To talk with someone who has the other kind of telephone, two telephones would be needed in your home.

Imagine a situation in which there are two city water systems. Instead of building a pipe line down the middle of the street and connecting every home and supplying water at what would probably be a reasonable price, there would be two pipes going down the middle of the street, each one connecting every other home and charging twice as much. It seems, then, that in situations where one is attempting to deliver a service to a mass of people, there may be built into the economics of it an inherent monopoly situation. The theory is, then, that if a monopoly or a potential monopoly is allowed to exist, one ought to extract from that company certain kinds of assurances that it will operate in the public interest, convenience and necessity (to borrow a few words from the Federal Communications Act).

How can a city or other governmental agency assure itself that the company will operate in the public interest, convenience and necessity, and how can it insure itself that the company selected is the one which will do the very best job? This is essentially the whole franchising process in a nutshell. It is an attempt to assure the city government and the citizens that they are not going to be rooked for the next several years. How can this be accomplished, i.e., what are the different patterns for selecting a franchise; how do you select the company that is going to have this legal right; how should the company present itself to the community; and how can it show that it is, indeed, the company that is going to supply the best service? I think that is the topic that James Keller can best discuss because he does that all the time.

Franchising is really a romance and a platonic relationship. In the initial stages it is a courtship, an attempt to determine whether two partners—a city and a company, and the citizens as part of the deal—will ever be able to get along with each other. The question is whether one partner brings to the other services and delights necessary for a more permanent relationship to flourish. And in the second place it is to determine, if the romance succeeds, what a delight it may prove to be, and if it does not succeed, in what way the relationship can be ended. That essentially is the whole franchising process. It is an attempt to set down in some legal fashion a relationship between a company or companies and a city or group of cities and its citizens, that they can live with for a period of years. Mr. Keller can tell us how the relationship usually begins.

James S. Keller: This was done differently a few years ago than it is currently being done. Ten or twelve years ago I could visit a community and see what they needed in terms of reception service. Within a week, I could write a franchise which I was willing to back up. Those days are gone. The cable communications industry has been integrated into the national telecommunications policy and is regulated by the FCC. Since March 1972, there are certain basic rules on the relationship between the local franchising authorities, and the FCC–certain minimums and maximums that must be met. There is now a procedure for awarding a franchise which includes a public hearing. Basically, the franchising process starts when somebody motivates the politicians to get moving. A company might be the motivator because there is a lack of communication services within the community, or any number of people in the community might be the motivators. In most cases the cable industry has become so highly visible that many more people know what can be provided, and there is an interior impetus within most communities to get a cable communications system.

What happens is that suddenly the local city or county government is faced with the decision of what to do about cable communications. Being political animals, they start looking at the local political framework in which they have to operate and compromise. They will hopefully ask themselves what expertise they have within their own city government. They may have a city manager who is very knowledgeable, who worked in a community which granted a franchise in the past and knows some of the mistakes that were made. The local government officials may appoint a committee of the council to work with a local expert in investigating the preliminary stages. From the legal standpoint, the city attorney will be brought into it. This is usually the point where things become very confusing. At this point, those locally responsible may throw up their hands and see anyone who wants to submit a proposal. An ordinance that incorporates the best parts of all submitted proposals will be put out for public hearing. After this the local body comes back and asks those that submitted bids to rebid. Most cable communications companies consider this to be blackmailing and do not like to work on this basis.

Cable communications companies would rather, at this initial stage, have the local governments hire a consultant. (There are some very knowledgeable consultants in the business.) The best way to find a good consultant is to investigate and to ask people who are interested in their local companies to suggest a consultant. Suggestions will range from the director of the cable television information center to someone on a college campus. Once a consultant is chosen, the city should ask him to put together the mechanics of warding the franchise.

The consultant will try to determine what the community interests are, and which community groups are potential users. These community elements will be invited to sit down, either as an officially appointed committee or as a self-constituted advisory committee. Either way is acceptable, as long as they work with the consultant, who must then determine what the communication needs are within the community and be realistic enough to put together an ordinance that companies will be willing to bid on. Recently some companies have been taking a different attitude toward franchising. If the city and the consultant come up with a totally unrealistic ordinance, companies simply are not going to bid.

One way to styme broadening the communications spectrum to include services that I have tried to outline is to demand municipal ownership; another way is to make the franchise ordinance so difficult and demand so much from the companies that either no one will bid on it, or, if they do bid on it, they cannot possibly build it. To develop a system, take a step-by-step approach to finding out what the community can expect and what the consultant says you can input from a cable company. Write a realistic ordinance and then ask the consultant, along with the city committee, to submit to all the known cable companies the request for a proposal. Set down a very precise list of proposals, and ask for performance based on the financial capability of the system. Ask what the company can realistically provide over and above the terms of the ordinance. Then, when the proposals come in, have the citizens' committee and the consultant evaluate the proposals, which they should do independently, because in some cases the politicians will disagree with the consultant's evaluation. A compromise has finally to be reached, and the franchise awarded.

Mullally: How do you, as a representative of a cable company, draw up a proposal that you are going to submit to an organization? You might tell how you went about drawing up the proposal you filed in Urbana-Champaign.

Keller: Basically, I do what the consultant must do: identify the immediate and the long-range communications needs of the community, and find out what the resources are. Is there a university included? What are the elementary and secondary school systems' attitudes toward the use of television? What is the library's attitude toward the use of television? What are all the separate agencies expecting in a communications system? What is the interrelationship between the university, college, library, and city hall for this community? How do they expect their communications to evolve in the future? Having once visited with all these people, I come back and state the type of system my company can reasonably propose. We try to be honest in what we can and cannot do, and about where we will need cooperation from various organizations to do it. We will fight all the way down the line if we think that we have a chance, on the basis of our proposal, to be awarded the franchise. If we find that our proposal is simply going to be discarded, or if we are going to be asked for additional requirements because somebody offered something else—then we will simply walk away from it.

Mullally: There are companies which do promise the sky and then never follow through. What can you, as a potential bidder, do to drive out the unrealistic bidder?

Keller: Nothing.

Mullally: To look at this from another point of view, what suggestions do you have to cities trying to handle this problem?

Douglass: The basic relationship between the CATV company and the community, at least through the franchising process, is kind of an adversary relationship. The cable company's primary interest is to provide the collection of services that will attract subscribers. The cable company, if left to its own economic devices, does not want to provide services whose costs are greater than the additional revenues that will be generated by subscribers attracted to that service. On the other hand, the community may want some services from the cable company that, at least in terms of cost analysis of that service, it is not sure it wants to provide. To put it in very simple terms, the cable company would like to make money on every service it offers. Some companies are better than others about taking the profits of some services that have been very profitable and using them to subsidize the cost of other services in order to put together a package that might have a good deal more utility for the community. The group seeking the cable services may want some things the cable company might not want to trouble itself with because of high or unknown costs.

The process of the franchising is essentially one of squeezing the bidders to get out of them the best collection of services at a given rate; this is what the negotiations are really all about. How is the community going to arrive at deciding what it is that it wants from the cable company; because if the community does not know what it wants, the cable company will largely decide for it, probably putting together a very good package of services, but not necessarily a package of services that is tailored to the needs of that community. Again it depends upon what kind of homework the cable companies do and how well it is tailored, but I think the community can perhaps ask for some things that the cable company, even though it may know the community could use them, may not choose to offer.

Therefore, the community must get its collective head together to decide what it wants. Each group in the community should examine its operation to determine if it has any need for the cable system at all; this would include, of course, librarians–public, university, or any special librarians–who can make any use of the cable television at all. If they can make use of it, what use? In what way could the cable facilitate either what one is doing now or what one might like to do that cannot be done now because the communication facilities are unavailable?

Using a librarian as an example, the next step is to contact the CATV committee, or whatever group is running the franchise operation on behalf of the community, and persuade, argue, and convince them that it is reasonable for them to ask the cable company for the kind of services that they think are needed. Once that is done, then the negotiation process will take its course, and librarians desires will be mixed in with the desires of a lot of other individuals and groups in the community. The priorities will have to be assessed according to the politics of the community, and the outcome cannot be predicted. But if the community cannot decide what is wanted or needed, its desires may or may not fit into the public access channel; then it may have to pay for a presentation of five minutes if the cable company has a policy of charging for a presentation. That is why it is extremely important that a community, and its individual members, know what is wanted and get their foot in the door–any interested party should make his argument to the CATV committee so it can request it before the cable operator.

Mullally: The mechanical process of bringing cable television to Urbana-Champaign is an interesting one. One of the first problems that had to be faced was: Should CATV come to Urbana-Champaign? That is the question that every community faces at one time or another. There were two or three companies that said they would like to have a franchise. Should a franchise be granted to anyone? We had a series of public hearings, and the University of Illinois devoted the facility of its television station to live hearings on CATV for two nights where the general public could call in their questions. Someone on the panel or the presentation group would answer the questions or, at least, would see that the questions were directed to people who could answer them. These rather extensive hearings were held to find out what CATV could offer the communities.

After the hearings, a study group–the City CATV Committee–went into the question in some depth, and a consultant was hired. I strongly urge cities to hire consultants. It is very rare that local communities have the kind of expertise, knowledge of FCC regulations, knowledge of what the companies can provide, etc., that is needed to make a good decision. Ultimately, it was decided that a franchise should be given for CATV. The next question faced was: Which company should have it? Several proposals were sought, and eight companies supplied bids which were, in effect, rather healthy proposals. We sifted through them from several viewpoints, to see which companies had done their homework on the community and which companies were submitting proposals in which the name Urbana-Champaign was plugged into an otherwise standard form.

We believed, and still do believe, that local control or at least part ownership is an important consideration. In most cases the cable company will attempt to get a group of local citizens to own part of the company. This can be a self-defeating method because you can have eight or nine different companies, each of them searching out all the local businessmen, community leaders and so on, and there is a great scramble for people who will subscribe to stock. So one basic question to consider is: How much of the company is locally owned, and, secondly, what kind of provisions are there in the relationship between the multiple system owner and the local group for buying stock? It is typical in these situations to have an arrangement whereby the multiple system owner can buy out some or all of the stock of the local group, usually after some specified number of years. I do not want to sound negative, cynical, or assertive about it, but it seems that, in many cases, this buy-out period begins just about the time profits begin to flow.

Keller: I might amplify this. Even if the local community owns 49 percent it does not have effective control. One of the largest factors in the awarding of the franchise in Urbana-Champaign was the fifty-fifty ownership. It is a very unusual case, and if you can get it, great, because then local people do, in fact, have a chance of voting their way if it comes down to any tough decisions. I think there are going to be many more agreements like that, rather than for a company to come in and distribute 15, 20, or 35 percent of the stock. I believe that we are going to find more and more local equity capital. Our company did not give away 50 percent of the Urbana-Champaign stock. The local Urbana-Champagne group is buying the stock dollar for dollar with us.

The local businessmen are putting up their money for 50 percent of the stock of the company that will run the system. This means $1,000,000 in equity from the community. There will be more and more of these arrangements. In this situation, we have a simple buy-sell agreement. When one group makes an offer to buy the other, the other then has the option to either buy or sell. This provides a pretty good assurance that whichever way it goes, it is going to be in the best interest of the community. The cable company is not going to be able to arbitrarily wipe out the local group. Since we have to operate there for fifteen years, we would just as soon have their money on the table so that they are looking after their interests as well as ours. This means that we have a local board of directors whose hard money is on the line. We have a combined board making the management decision; not some distant home office. I think, contrary to what Don Mullally said, you are going to see this more and more.

Douglass: In addition, the community should examine the expertise of the company very critically, particularly if it is a wholly local operation, i.e., with no tie-in with any national outfit. Look carefully to determine whether it is going to be able to build this system. Who is doing their engineering for them? Who is going to do the system construction? What kind of resources can they draw on in terms of management personnel? Some communities might be a little thin when it comes to these skills, and joint local and national ownership might be a stronger package in terms of expertise. Another question is whether the community has the financial resources to build the system. Multiple system owners should be scrutinized to make sure that they have not over-committed themselves in building systems and might face a credit crunch while the system is being build. Look at the experience the developer has had with other systems; send somebody to see what they are doing at systems already installed. Make sure that the company is producing the kind of quality needed on a regular basis and not hiding its presentation by some spectacular thing that it has done on a one-time basis.

Mullally: Before we took up a relationship with James Keller's company, we did quite a bit of research on what its other systems were like–how many of them were great, how many mediocre, how many poor. Whenever I heard of a bad situation in another community, I called the city manager to find out exactly what the situation was, if it was the company's fault, and if they were going to revoke the franchise. Finally, after investigating all of these questions, you have to make a decision as to which one of the applicants is the one that you want to deal with for the next few years, and then decide how many years that will be.

How many years should the franchise last? In the past, franchises were granted for as long as twenty years, and there were even a few 25-year franchises. They are getting shorter and the FCC has recommended shorter franchises–about 15 years. There are even a few 10-year franchises now. However, the franchise period must be long enough for the company to recoup its investment. In the first few years the company puts up its money and has few subscribers; you have to give the company long enough to make its investment back and a reasonable profit. Otherwise you are not going to get very good service. Some cities want contracts which stipulate that, at the end of the franchise period, the city has the right to buy back the system. That is not very appealing from the company's point of view. Why should it take all the risks at the beginning and then have somebody take away what ultimately would be their profits?

Companies may also, by the time the end of the franchise comes around, be forced, in effect, to rebuild the system. Systems are constantly being rebuilt on a bit-by-bit basis. So, a decision has finally to be made, and generally it will be made on the basis of which company a community thinks is the best one for it. Then an ordinance will be written which embodies all the terms of the proposal, any kind of regulatory mechanisms that the city has in mind, and rates.

Let us consider regulations. Basically, once the system is in, how is it made to perform? Sometimes the city's interests and the company's interests are not the same, and citizens have the fear, many times unfounded but sometimes properly founded, that the company is going to boondoggle the community and get the franchise. Many cities are building in some type of supervisory or regulatory function at the local level where they actually supervise the company's operations, and providing for some kind of complaint referral system, or an opportunity to take the company to court if certain things happen or do not happen. That is a very useful kind of thing, within reason. I think it is not within reason when the company can be subjected to lawsuits at will, or if any crackpot who feels that the picture does not look good enough is going to get the company in court. That is the kind of situation that companies will shy away from and probably not bid on.

Douglass: In considering rates, resist the temptation to take the lowest bidder, because the less money a cable company collects, the less money it has at its disposal to do anything for the community, particularly in the area of services. They have to build a system—that is specified in the contract or in the franchise. A lot of money will be chewed up in just building the physical plant, but the real value of the system is in its utilization, not in just having communication facilities. If the rate is too low, the cable operator is going to be less willing to commit himself to various kinds of services. He is going to feel that his back is against the wall—that he dare not commit himself to much of anything for fear of forcing himself into bankruptcy. There has to be some relationship between rates and services. A community might be better off taking the higher rate and getting better services, than taking the minimum rate and just getting some facilities.

Mullally: The difference between a $5.00 rate and a $5.25 rate for the average citizen is insignificant. To the company it is a phenomenal difference because of the thousands of subscribers. The difference in terms of the level of services that they can provide therefore will be substantial.

Keller: I recommend that, after talking with its consultants and with the most knowledgeable of their people, the city establish a rate, by ordinance, at which all of the companies then have to provide services as best they can. In this way the community has an objective scale with which to compare the kinds of services a company is going to provide for a set price. A bidding contest on rates is often not based on a realistic cost breakdown at that stage.

Cable communications companies faced a rather unusual situation in Urbana-Champaign because there were really three entities: the city of Champaign, the city of Urbana, and the University of Illinois. Fortunately the university people knew what they were talking about. They had done all their political in-fighting before they got involved, and therefore spoke as one. They knew what basis they wanted to put the system on over the next fifteen to thirty years. They also knew approximately what they felt they could afford, and as a result they approached the companies with a reasonable package. They presented the services they wanted to be provided to the locations they wanted accessed, and asked how much it would cost. The companies had a dilemma: to provide the services they wanted at a rate they could afford, and yet make the rate to the university fully compensatory, otherwise the people of Urbana-Champaign would feel that they were subsidizing the university system. For all the services that we are going to be providing the University of Illinois, both internally and externally, we feel we have a rate that we cannot make a profit on, but which will provide us with a test market within the university and for the services that are going to be provided at the university and in Urbana-Champaign.

Mullally: I hope the company does make a profit because if it does not, we are in trouble. We are not interested in forcing the company to the wall, because we realize that if we do, the services will be minimal. A cable communications company does have to do a lot of homework on what they can afford to give or sell and at what cost. The potential user must consider what can be done with those services. Why ask for the moon if you do not intend to go there? There have been several cases in which educational groups have demanded thirty channels dedicated to education, 200 portapacks, 43 billion videotape machines, etc. If the company gave these things to people, they would not know what to do with them. Production is very difficult, time-consuming, and expensive.

When I set up the kind of operation that we were working with—the negotiation process with the company—I needed to know a lot of things that I did not know, so I called on other expertise. I asked the vice-chancellor of the university for a staff of experts: an engineering consultant (we hired one), and help in analyzing the financial statements and performance of the various companies (the university hired a law firm which knows the FCC law, and which deals with cable television regulation all the time). It has become a team approach: we have local people who understand local needs, people who can supervise the administration of the system, people who can do the negotiations with the company, and people who can write a contract. We also have engineering consultants, financial consultants and external legal consultants who can keep us plugged in to what is happening elsewhere.

Keller: The national intent of the existing communications monopoly is no longer to defeat cable television or cable communications, because it recognizes the inevitable. What it wants to do is to delay the process as long as possible. The executive director of the Nebraska Broadcasting Association, when asked by a county commission: "Sir, how long do you think we should study this issue?" answered "Not over ninety years." Unfortunately, what is occurring right now is that many of the groups who are potential users of cable are trying to design the toaster before they have the basic electricity system. So much is being made of all the issues that are currently in vogue about cable television that the politicians are becoming confused; and any time a politician becomes confused, he does not do anything. As a result, systems are simply not being built. What interested groups—the American Civil Liberties Union, the League of Women Voters, etc.—are doing is being used, inadvertently perhaps, by the existing communications monopolies to confuse the issue so that a franchise is never granted. I urge interested individuals and communities to study the issues and get input to their politicians, but on a timely and reasonable basis. Try to be concrete rather than to show everything that you someday hope to get out of the cable system.

AUDIENCE QUESTIONS

Q. How do you rewrite the franchise that has been "grandfathered" over a period of years? (A system franchised before the current rules were adopted, and allowed to retain its old mode of operation is said to be "grandfathered."—Ed.)

Mullally: I think a lot has to do with the relationship of the community to the operator in that community. If an operator has been doing his job to the best of his ability, he will be willing to sit down and negotiate a new covenance of the existing franchise. The FCC has taken this into its purview and has required the systems in the top 100 market to meet the communications standards, technical aspects of programming, etc., by 1977, and has left the process open so that all systems, whether they are the top 100 market or not, must have their franchises certified by 1977. This opens the door for negotiation with existing cable companies to achieve new certification. As long as the system is going to have to be rebuilt to comply with the existing regulations by 1977, it is going to cost the cable operator a lot of money. He might be very willing to listen to the renegotiation of the contract, perhaps at a higher subscription rate. The point is that both parties are likely to agree to open up the contract for renegotiation or, at least, to sign a new franchise or a new contract. The operator can use additional revenues, and the community can use additional services.

Douglass: I am, in general, against the regulation of rates of cable systems along the same lines that utilities are typically regulated. The way telephone companies and electric utilities have had their rates regulated is just all wrong. There are very few incentives for efficiency in that system of regulation.

Q. Is there really a community interest in cable other than better reception of current offerings?

Keller: People of the community are generally totally apathetic about the advent of cable services. In fact, we usually have to go out and ask for input. This is particularly evident in some of the states where all franchises have to go to referendum. One of the reasons we have difficulty in getting a majority in a referendum is that so few voters come out for the election. To answer the question, there is much apathy, even though all of us connected with communications recognize the potential uses of cable television and cable communications.

For instance, franchises are often defeated in a referendum by such statements as: "If cable television comes, free television is going to go off the air." "We won't be able to get anything else." "If you hang those cables up there on those poles, it's going to suck all the signals out of the air and we won't be able to get any reception." "If cable television comes, everybody in the community is going to have to pay for it. I'm a senior citizen living on a fixed income, and I do not want it, and there is no way in the world that I'm going to allow it." "It is not private capital that's needed there at all, but there is going to be another hidden tax on everyone."

Comment: To combat apathy, librarians could make a bibliography of materials available on cable use and financing in their own libraries, or materials available on interlibrary loan. Books should not all be from the National Association of Broadcasters or the Cable Operators Association. Get material from both of them and from other sources, too.

Q. How will poor people and elderly people on a fixed income be served by cable television?

Keller: Our company likes to set up community information centers or study centers in senior citizens homes or settlement houses or any one of a number of locations where the service can be installed. Those people who wish to use the service would be welcome to do so at no cost. In some cases we will set a special lower rate for all multiple dwelling units using public funds–publicly supported housing units for the poor or for the elderly. I do not anticipate, nor would I ever want to be paid by welfare for cable communications services, although I believe that there is going to be a day when some of the services we are going to be able to provide–e.g., in public health, diagnosis or health education for the poor–could possibly be subsidized by some agency.

Mullally: I would disagree with that. It seems that we have come a long way in terms of the kinds of things we believe are necessities. There was a time when books were for the rich; we now believe that books are for everyone. We make them available at relatively low cost–in fact, we make them available free on a loan basis to the whole community–and this service is subsidized by the taxpayers. We believe that people should have a certain standard of living, and if they cannot for some reason, we have a welfare system which helps to bring them to that minimal standard of living. For many years we did not allow people who had welfare to have telephones. Suddenly, somebody decided that a telephone is not a luxury in this kind of society–it is a necessity. If cable television is going to do all the things that we want it to do, and if it is going to deliver on the promises that the companies seem to imply, then maybe it, too, will someday become a necessity and be sufficiently important for its educational and social value alone and be at least partially subsidized by the welfare system.

Q. You mentioned before that, along with the FCC and the local government, state government has input concerning franchising. Please expand on that.

Keller: There are a number of states that have gotten into the regulation of cable television. They use basically one of two methods of regulation. One method is the control by the public service commission or the public utilities commission which controls the cable operator as a public utility–Nevada and Connecticut, I believe, are the notable examples of public service or public utility type of control. Other states have used a separate cable commission, in which they set up an entirely separate body from the public utilities commission. New York, New Jersey, Massachusetts and Minnesota are examples of this method. What they are doing, in effect, is regulating the regulators. They are putting a third-tier of regulation on the industry–one that ultimately is going to be financed by taxpayers.

Of the two methods of regulation, the one preferable to the cable operator is the separate cable commission. We are finding now that people are getting appointed to the commission who are broadcasters, educators, newspaper owners, radio station owners, etc. It is almost analogous to the NAACP regulating the Ku Klux Klan. In any event, it is regulation by people who have an ax to grind that operators feel is not acceptable. In fact, many of the state regulation agencies have precluded anyone from serving on that commission who has any knowledge of cable television at all. We resent this. We have been working at the federal level for FCC preemption of all state control, and I believe that the issues will be faced by the FCC very shortly. I feel the three-tiered regulation is in total confusion and works with total inefficiency.

Mullally: The state of Illinois attempted to exercise jurisdiction over CATV through the Illinois Commerce Commission, and the Illinois Commerce Commission has been told by the state Supreme Court that it has no jurisdiction over CATV in Illinois as the Commerce Act is now written. Illinois has, then, a two-tiered system of federal and local regulations.

Q. There has been discussion of issuing of new franchises. What happens when an initial franchise runs out and it comes time to consider renewal? Would this be approached differently from the issuance of a completely new franchise?

Mullally: There is no difference at all. If the company has been doing its job, renewal should not be too difficult. If they have not been doing the job, the negotiations are going to be very difficult—even to the point where the city may want to ask for new bids.